

1 **COUNTY OFFICERS SERVING ON BOARDS**
2 **OF COUNTY MENTAL HEALTH AND**
3 **SUBSTANCE ABUSE PROVIDERS**

4 2005 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: David L. Thomas**

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to public officers ethics and county officers
11 disclosures.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ makes an exception to certain public officers ethics provisions and county officers
15 disclosure provisions for county legislative body members who also serve on the
16 governing body of a provider of county mental health and substance abuse services,
17 if the county legislative body member does not participate in the process of
18 selecting the provider.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **17-16a-4**, as last amended by Chapter 92, Laws of Utah 1998

26 **67-16-4**, as last amended by Chapter 276, Laws of Utah 2000



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **17-16a-4** is amended to read:

30 **17-16a-4. Prohibited use of official position.**

31 (1) [~~H~~] Except as provided in Subsection (3), it is an offense for an elected or appointed
32 officer, under circumstances not amounting to a violation of Section 63-56-72 or 76-8-105, to:

33 (a) disclose confidential information acquired by reason of his official position or use
34 that information to secure special privileges or exemptions for himself or others;

35 (b) use or attempt to use his official position to secure special privileges for himself or
36 others; or

37 (c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or
38 loan for himself or another if the gift or loan tends to influence him in the discharge of his
39 official duties.

40 (2) This section is inapplicable to:

41 (a) an occasional nonpecuniary gift having a value of less than \$50;

42 (b) an award publicly presented;

43 (c) any bona fide loan made in the ordinary course of business; or

44 (d) political campaign contributions actually used in a political campaign.

45 (3) A member of a county legislative body who is also a member of the governing
46 board of a provider of mental health or substance abuse services under contract with the county
47 does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the
48 duties and responsibilities of each position, if the county legislative body member does not
49 participate in the process of selecting the mental health or substance abuse service provider.

50 Section 2. Section **67-16-4** is amended to read:

51 **67-16-4. Improperly disclosing or using private, controlled, or protected**
52 **information -- Using position to secure privileges or exemptions -- Accepting employment**
53 **which would impair independence of judgment or ethical performance.**

54 (1) [~~H~~] Except as provided in Subsection (3), it is an offense for a public officer, public
55 employee, or legislator, under circumstances not amounting to a violation of Section 63-56-72
56 or 76-8-105, to:

57 (a) accept employment or engage in any business or professional activity that he might
58 reasonably expect would require or induce him to improperly disclose controlled information

59 that he has gained by reason of his official position;

60 (b) disclose or improperly use controlled, private, or protected information acquired by
61 reason of his official position or in the course of official duties in order to further substantially
62 the officer's or employee's personal economic interest or to secure special privileges or
63 exemptions for himself or others;

64 (c) use or attempt to use his official position to:

65 (i) further substantially the officer's or employee's personal economic interest; or

66 (ii) secure special privileges or exemptions for himself or others;

67 (d) accept other employment that he might expect would impair his independence of
68 judgment in the performance of his public duties; or

69 (e) accept other employment that he might expect would interfere with the ethical
70 performance of his public duties.

71 (2) (a) Subsection (1) does not apply to the provision of education-related services to
72 public school students by public education employees acting outside their regular employment.

73 (b) The conduct referred to in Subsection (2)(a) is subject to Section 53A-1-402.5.

74 (3) A county legislative body member who does not participate in the process of
75 selecting a mental health or substance abuse service provider does not commit an offense under
76 Subsection (1)(a) or (b) by:

77 (a) serving also as a member of the governing board of the provider of mental health or
78 substance abuse services under contract with the county; or

79 (b) discharging, in good faith, the duties and responsibilities of each position.

Legislative Review Note

as of 11-27-04 2:27 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0090

**County Officers Serving on Boards of County Mental Health and
Substance Abuse Providers**

12-Jan-05
3:48 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst